

Senate Amendment 3212

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1 1 Amend House File 619, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 3, by inserting after line 18 the
1 4 following:
1 5 _____. NEW SECTION. 155A.4A PHARMACEUTICAL
1 6 MARKETERS == PROHIBITION OF GIFTS.
1 7 1. A pharmaceutical marketer shall not offer or
1 8 provide to any practitioner, hospital, health care
1 9 facility, or health benefit plan administrator, or any
1 10 other person in this state authorized or licensed to
1 11 dispense, distribute, or purchase prescription drugs,
1 12 any gift not otherwise exempt under this section.
1 13 2. The following gifts are exempt from the
1 14 prohibition of this section:
1 15 a. Free samples of prescription drugs intended for
1 16 distribution to patients.
1 17 b. The payment of reasonable compensation and
1 18 reimbursement of expenses in connection with bona fide
1 19 clinical trials. As used in this paragraph, "clinical
1 20 trial" means an approved clinical trial conducted in
1 21 connection with a research study designed to answer
1 22 specific questions about vaccines, new therapies, or
1 23 new ways of utilizing known treatments.
1 24 c. Any gift, fee, payment, subsidy, or other
1 25 economic benefit the value of which is less than
1 26 twenty-five dollars.
1 27 d. A scholarship or other support for medical
1 28 students, residents, or fellows to attend a
1 29 significant educational, scientific, or policymaking
1 30 conference of a national, regional, or specialty
1 31 medical or other professional association if the
1 32 recipient of the scholarship or other support is
1 33 selected by the association.
1 34 3. a. Annually on or before January 1, every
1 35 pharmaceutical manufacturing company shall disclose to
1 36 the board the value, nature, and purpose of any gift,
1 37 fee, payment, subsidy, or other economic benefit
1 38 provided in connection with detailing, promotional, or
1 39 other marketing activities by the company, directly or
1 40 through its pharmaceutical marketers, to any
1 41 practitioner, hospital, nursing home, pharmacist,
1 42 health benefit plan administrator, or any other person
1 43 in this state authorized to prescribe, dispense, or
1 44 purchase prescription drugs in this state. Disclosure
1 45 shall be made on a form and in a manner prescribed by
1 46 the board and shall be made for the period beginning
1 47 July 1 and ending June 30 of the previous state fiscal
1 48 year. An initial disclosure shall be made on January
1 49 15, 2004, for the period beginning July 1, 2003, and
1 50 ending December 31, 2003. The board shall provide to
2 1 the office of the attorney general complete access to
2 2 the information required to be disclosed under this
2 3 subsection. The office of the attorney general shall
2 4 report annually on the disclosures made under this
2 5 section to the governor and the general assembly on or
2 6 before March 1.
2 7 b. Each company subject to the provisions of this
2 8 section shall also disclose to the board, on or before
2 9 October 1, 2003, and annually thereafter, the name and
2 10 address of the individual responsible for the
2 11 company's compliance with this section.
2 12 c. The board and the office of the attorney
2 13 general shall keep confidential all trade secrets as
2 14 defined in section 550.2. The disclosure form
2 15 prescribed by the board shall permit the company to
2 16 identify any information that is a trade secret.
2 17 d. The company is exempt from disclosure of any
2 18 gifts that are exempt from the prohibition pursuant to
2 19 subsection 2.
2 20 e. The attorney general may bring an action for
2 21 injunctive relief, costs, and attorney fees, and may
2 22 impose a civil penalty of not more than ten thousand
2 23 dollars per violation on a company that fails to
2 24 disclose information as required by this subsection.

2 25 Each failure to disclose constitutes a separate
2 26 violation.
2 27 4. For the purposes of this section:
2 28 a. "Pharmaceutical manufacturing company" means
2 29 any entity engaged in the production, preparation,
2 30 propagation, compounding, conversion, or processing of
2 31 prescription drugs, either directly or indirectly by
2 32 extraction from substances of natural origin, or
2 33 independently by means of chemical synthesis, or by a
2 34 combination of extraction and chemical synthesis, or
2 35 any entity engaged in the packaging, repackaging,
2 36 labeling, relabeling, or distribution of prescription
2 37 drugs. The term does not include a wholesaler or a
2 38 pharmacist licensed under this chapter.
2 39 b. "Pharmaceutical marketer" means a person who,
2 40 while employed by or under contract to represent a
2 41 pharmaceutical manufacturing company, engages in
2 42 pharmaceutical detailing, promotional activities, or
2 43 other marketing of prescription drugs in this state to
2 44 any practitioner, hospital, health care facility,
2 45 pharmacist, health benefit plan administrator, or any
2 46 other person licensed or authorized to prescribe,
2 47 dispense, or purchase prescription drugs.
2 48 "Pharmaceutical marketer" does not include a
2 49 wholesaler or a wholesale salesperson.>
2 50 #2. By renumbering as necessary.

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